

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATRICIA N. TELESKO,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/10/2022

20-cv-8376 (MKV)

ORDER ADOPTING R&R

MARY KAY VYSKOCIL, United States District Judge:

Patricia Telesco, represented by counsel, commenced this action against the Commissioner of the Social Security Administration, pursuant to the Social Security Act, 42 U.S.C. § 405(g), seeking review of Commissioner's decision that Telesco is not entitled to Supplemental Security Income benefits for lack of disability. The Court referred the case to Magistrate Judge Lehrburger [ECF No. 7]. Telesco filed a motion for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, seeking remand of the case for a further hearing and an award of attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412 [ECF Nos. 20, 21, 24]. The Commissioner filed a cross-motion for judgment on the pleadings, asking the Court to affirm the Commissioner's decision [ECF Nos. 22, 23].

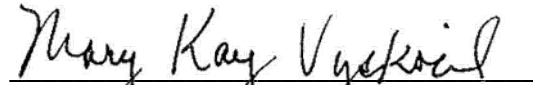
Magistrate Judge Lehrburger issued a Report and Recommendation [ECF No. 25]. He recommended that the Court grant Telesco's motion, deny the Commissioner's motion, and remand this case. No party timely filed any objections Magistrate Judge Lehrburger's Report and Recommendation, nor has the Court received any untimely objections.

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The Court reviews a report and recommendation to

which no objections are filed for clear error. *See* Fed. R. Civ. P. 72; *Colvin v. Berryhill*, 734 F. App'x 756, 758 (2d Cir. 2018); *Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006). The reasoning and conclusions of Magistrate Judge Lehrburger's Report and Recommendation are sound and well-supported, and the Court, therefore, adopts them. Accordingly, pursuant to sentence four of 42 U.S.C. § 405(g), Telesco's motion [ECF No. 20] is GRANTED, the Commissioner's motion [ECF No. 22] is DENIED, and this case is REMANDED for a determination consistent with the discussion in Magistrate Judge Lehrburger's Report and Recommendation.

SO ORDERED.

Date: March 10, 2022
New York, NY


MARY KAY VYSKOČIL
United States District Judge